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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/510,857	02/23/2000	David A Bryniarski	PCOS:052	3770

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EXAMINER

RUDDOCK, ULA CORINNA

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 01/29/2002

24

Please find below and/or attached an Office communication concerning this application or proceeding.

Keep in case

AS-4

**Office Action Summary**Application No.  
**09/510,857**Applicant(s)  
**David A. Bryniarski**Examiner  
**Ula Corinna Ruddock**Art Unit  
**1771**

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) ☒ Responsive to communication(s) filed on Feb 23, 2000

2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

**Disposition of Claims**

4) ☒ Claim(s) 1-12 is/are pending in the application.

4a) Of the above, claim(s) 12 is/are withdrawn from consideration.

5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.

6) ☒ Claim(s) 1-11 is/are rejected.

7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.

8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.

12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. § 119**

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) ☐ All b) ☐ Some\* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

**Attachment(s)**

15) ☐ Notice of References Cited (PTO-892)

18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

19) ☐ Notice of Informal Patent Application (PTO-152)

17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 2 & 3

20) ☐ Other:

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**DETAILED ACTION**

***Election/Restriction***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-11, drawn to a net-reinforced film, classified in class 442, subclass 43.
  - II. Claim 12, drawn to a method of forming a net-reinforced film structure, classified in class 156, subclass 349+.
2. The inventions are distinct, each from the other because of the following reasons:

Inventions II and I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case, the product can be made by another process, i.e. by coextruding the film and netting layer and applying pressure to form a laminate.
3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
4. During a telephone conversation with Zachary Smolinski on October 24, 2001 a provisional election was made with traverse to prosecute the invention of Group I, claims 1-11. Affirmation of this election must be made by applicant in replying to this Office action.

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Claim 12 is withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The terms "wider" in claim 1 and "shallower" in claim 2 are relative terms which render the claim indefinite. The terms "wider" and "shallower" are not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. The Examiner is unclear as to how much wider and shallower the seal areas are than the non-seal areas. Further clarification/correction is required.

Also, in claim 1, Applicant discloses that the seal has a wider cross section "at a time prior to sealing." It is unclear to the Examiner what is meant by "at a time prior." Further clarification is required.

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In claim 9, Applicant claims the “pattern is comprised of standard netting strands and seal netting strands.” It is unclear to the Examiner what is meant by “standard.” Further clarification is required.

In claim 11, Applicant discloses “neighboring ones of said netting strands.” It is unclear what the phrase “neighboring ones” encompasses. Does it mean the immediate strand or a few strands away. It is suggested that the term “adjacent” be used instead.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-4 and 7-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Rogosch (US 3,616,130). Rogosch et al. disclose a laminated plastic sheet material made from two sheets of thermoplastic material having a web of reinforcing strands therebetween (abstract). The two sheets of material are bonded to each other in the interstices provided in the web. The outer layers of the sheet are formed with high density polyethylene (col 4, ln 28). The web of reinforcing material is made of nonwoven or woven strands arranged in an open mesh network and is made of polypropylene fibers (col 4, ln 37-44).

9. Claims 1-4 and 7-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Thibodeau (US 4,285,998). Thibodeau disclose a reinforced thermoplastic lightweight film sheet

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in which a lightweight plastic net product is freely sandwiched between at least two layers of lightweight thermoplastic film. The net is freely movable with respect to the film layers except along selected strips where at least the plastic film layers are bonded together fixedly securing the net therebetween (abstract). In one embodiment, low density polyethylene film sheets sandwich a polypropylene net. The net is a rectangular mesh in which the strands meet at substantially right angles. The film and net are bonded together by the heat (col 2, ln 66-68 to col 3, ln 1-9).

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 5, 6, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rogosch et al. (US 3,616,130), as shown above. Rogosch et al. disclose the claimed invention except for the teaching that the netting strands at the seal area have a width greater than or equal to 60 mils, that the netting strands at the non-seal areas have a width greater than or equal to 5 mils, and the netting strands are spaced greater than or equal to about 0.25 inches from each other. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have made the netting strands at the seal area have a width of greater than 60 mils, the non-seal areas have a width greater than 5 mils, and the netting strands spaced greater than 0.25 inches from each other, since it has been held that discovering an optimum value of a

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result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980). In the present invention, one of ordinary skill would have optimized the widths of the seal areas and non-seal areas and the spacing between the netting strands, motivated by the desire to obtain a more durable plastic sheet.

12. Claims 5, 6, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thibodeau (US 4,285,998), as shown above. Thibodeau disclose the claimed invention except for the teaching that the netting strands at the seal area have a width greater than or equal to 60 mils, that the netting strands at the non-seal areas have a width greater than or equal to 5 mils, and the netting strands are spaced greater than or equal to about 0.25 inches from each other. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have made the netting strands at the seal area have a width of greater than 60 mils, the non-seal areas have a width greater than 5 mils, and the netting strands spaced greater than 0.25 inches from each other, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980). In the present invention, one of ordinary skill would have optimized the widths of the seal areas and non-seal areas and the spacing between the netting strands, motivated by the desire to obtain a more durable plastic sheet.

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***Conclusion***

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ula C. Ruddock whose telephone number is (703) 305-0066. The Examiner can normally be reached Monday through Thursday from 6:30 AM to 5 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor Terrel Morris can be reached at (703) 308-2414.

Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is (703) 308-2351.

Ula C. Ruddock  
Patent Examiner  
Art Unit 1771  
January 16, 2002

*Ucl*

  
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